

Application Serial No.: 09/721,586
Amendment Dated: May 16, 2003
Reply to Office Action Dated: April 23, 2003

RESPONSE TO FINAL OFFICE ACTION DATED APRIL 23, 2003

REMARKS

This is in response to the Office Action dated April 23, 2003. Applicant thanks Examiner Howard for the telephone interview on May 16, 2003, in which she indicated that claims 38-59 claims are allowed, and for the earlier allowance of claims 1-37.

Applicant submits a copy of the only office action issued in the parent application (Exhibit A), in which the PTO indicated that all claims were allowed if the word "invention" was changed to "process" in claims 2-21 and to "preservative" in claims 23-37. As was discussed, this amendment gave up no relevant coverage and the recapture rule does not apply. Thus, the recapture rule does not apply to claims 38-59, which should be allowed.

The Examiner also agreed that the use of citric acid is not critical to the claimed invention. As previously stated, (1) the patent does not describe it as critical and (2) the specification itself indicates that the invention may be achieved without citric acid. Inclusion of citric acid in the preferred embodiment does not mean that citric acid must be used at all times, or to carry out the invention. Here, citric acid is not critical for all of the reasons previously stated.

Application Serial No.: 09/721,586
Amendment Dated: May 16, 2003
Reply to Office Action Dated: April 23, 2003

For the foregoing reasons, claims 38-59 are each patentable, and a notice of allowance is requested for all claims 1-59. If, however, the Examiner believes it to be necessary, she is invited to call Applicant's attorney to discuss any remaining issues.

Respectfully submitted,



Larry L. Saret

Registration No. 27674

Lisa C. Childs

Registration No. 39937

MICHAEL BEST & FRIEDRICH LLC

401 North Michigan Avenue, Suite 1900

Chicago, IL 60611

(312) 661-2100 (ph.) (312) 222-0818 (fax)